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**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

BRISTOL BAY ECONOMIC
DEVELOPMENT CORPORATION *et al.*,

Plaintiffs,
v.

Case No. 3:19-cv-00265-SLG

CHRIS HLADICK *et al.*,

Defendants.

SALMON STATE *et al.*,

Plaintiffs,
v.

Case No. 3:19-cv-00267-SLG

CHRIS HLADICK *et al.*,

Defendants.

TROUT UNLIMITED,

Plaintiff,
v.

Case No. 3:19-cv-00268-SLG

U.S. ENVIRONMENTAL PROTECTION
AGENCY *et al.*

Defendants.

JOINT NOTICE REGARDING FINALITY OF JUDGMENT

Plaintiffs Bristol Bay Economic Development Corporation *et al.* in Case No. 3:19-cv-00265-SLG; SalmonState *et al.* in Case No. 3:19-cv-00267-SLG; and Trout Unlimited

Joint Notice Re. Finality of J. Page 1
Bristol Bay Economic Development Corp. v. Hladick, Case No. 3:19-cv-00265-SLG

in Case No. 3:19-cv-00268-SLG each filed complaints and an opening brief seeking to vacate EPA's 2019 decision to withdraw its Proposed Determination to protect Bristol Bay from certain discharges associated with mining the Pebble deposit, in part because the agency had failed to consider whether those discharges would result in unacceptable adverse effects. Compl., *Bristol Bay Econ. Dev. Corp. et al. v. Hladick et al.*, No. 3:19-cv-00265-SLG, Doc. 1, ¶¶12, 135 (Oct. 8, 2019); *SalmonState et al. v. Hladick et al.*, No. 3:19-cv-00267-SLG, Doc. 1, ¶¶18, 118 (Oct. 9, 2019); *Trout Unlimited v. EPA*, No. 3:19-cv-00268-SLG, Doc. 1 at 53; *id.* ¶¶ 148-151; Pls.' Joint Opening Br., *Bristol Bay Econ. Dev. Corp. et al. v. Hladick et al.*, No. 3:19-cv-00265-SLG, Doc. 48 at 15, 50-52 (Jan. 31, 2020). This Court consolidated the cases and granted EPA's motion to dismiss, concluding that the withdrawal decision was committed to EPA's discretion by law. Doc. 75 at 35-36.¹ Only Trout Unlimited appealed that dismissal. Doc. 77. The Ninth Circuit reversed in part, holding EPA may withdraw a proposed determination under Clean Water Act section 404(c) only if it concludes the relevant discharge is unlikely to cause unacceptable adverse effects. *Trout Unlimited v. Pirzadeh*, 1 F.4th 738, 757 (9th Cir. 2021). On remand, EPA has moved for this Court to vacate its 2019 withdrawal decision—requesting the very relief sought by Plaintiffs from the outset of the

¹ Docket citations in this notice refer to filings in the consolidated cases under *Bristol Bay Econ. Dev. Corp. et al. v. Hladick et al.*, No. 3:19-cv-00265-SLG.

consolidated cases—because the agency “failed entirely to address” this central standard. Doc. 103 at 15-16.

Plaintiffs Bristol Bay Economic Development Corporation *et al.* and SalmonState *et al.* file this notice to bring to the Court’s attention that Case Nos. 3:19-cv-00265-SLG and 3:19-cv-00267-SLG are still listed as active on the Court’s docket, notwithstanding the Court’s judgment dismissing them. Doc. 76. Plaintiffs Bristol Bay Economic Development Corporation *et al.* and SalmonState *et al.* understand judgment to be final regarding these two unappealed cases, notwithstanding the successful appeal by Plaintiff Trout Unlimited in its related, consolidated case and, accordingly, are not filing a response to EPA’s motion requesting remand with vacatur, or any further proceedings in the remaining case. *See Federated Dep’t Stores v. Moitie*, 452 U.S. 394 (1981); *Hall v. Hall*, 138 S.Ct. 1118 (2018); Doc. 77, 83.

Respectfully submitted this 12th day of October, 2021.

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Joint Notice Re. Finality of J. Page 3
Bristol Bay Economic Development Corp. v. Hladick, Case No. 3:19-cv-00265-SLG

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Joint Notice Re. Finality of J. Page 4
Bristol Bay Economic Development Corp. v. Hladick, Case No. 3:19-cv-00265-SLG